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OFFICE OF PETITIONS

In re Application of
Eric Li
Application No. 11/004,004
Filed: December 3, 2004
Attorney Docket No. P19311

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ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. §1.10(d)", filed January 28, 2005, to accord the above application a filing date of December 3, 2004.

The petition is **GRANTED**.

With the instant petition, petitioner argues that the above identified application was filed on December 3, 2004, not December 2, 2004.

37 C.F.R. §1.10(d) states:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

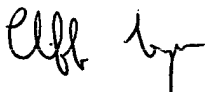
The instant petition satisfies the requirements of 37 C.F.R. §1.10(d). Petitioner has supplied a copy of a log book, with a log entry time of 5:19 on December 3, 2004, showing that the instant application bearing Express Mail Label No. EL963889199US was deposited on December 3, 2004 at 4:42. Furthermore, a review of the US Postal Service's website reveals that Express Mail Label No. EL963889199US was accepted by the USPS on December 3, 2004.

In view of the above, the application is entitled to a filing date of December 3, 2004.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **December 3, 2004, not December 2, 2004.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions